

1 **LABATON SUCHAROW LLP**

2 140 Broadway  
3 New York, NY 10005  
3 Telephone: 212 907 0700  
4 Fax: 212 818 0477

5 *Attorneys for Intervenors Nancy Adame, Rebecca Adams,  
Josh Ades, Heather Appleman, and Michael Atkinson-  
Leon*

6

7

8

9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN FRANCISCO DIVISION**

11 **IN RE: 23ANDME, INC., CUSTOMER**  
12 **DATA SECURITY BREACH LITIGATION**

13 **Case No. 24-md-03098-EMC**

14 **DECLARATION OF MELISSA H.**  
14 **NAFASH IN OPPOSITION TO**  
14 **PRELIMINARY APPROVAL OF CLASS**  
15 **ACTION SETTLEMENT**

16 I, MELISSA H. NAFASH, declare as follows:

17 1. I am an attorney with the firm Labaton Keller Sucharow LLP (“Labaton”). My firm  
18 represents intervenors Nancy Adame, Rebecca Adams, Josh Ades, Heather Appleman, and Michael  
19 Atkinson-Leon (“Intervenors”), along with approximately 11,000 other individuals seeking to  
20 arbitrate their data privacy claims against 23andMe, Inc. (“23andMe”).

21 2. I respectfully submit this Declaration in opposition to the parties Motion for  
22 Preliminary Approval of Class Action Settlement. This Declaration is based upon my personal  
23 knowledge and if called to testify, I could and would do so competently as to the matters set forth  
24 herein.

25 3. On February 9, 2024, my firm sent 23andMe a claim notice letter to the physical  
26 address and email address listed in 23andMe’s Terms of Service, informing 23andMe of the claims

1 of 3,529 individuals who had retained Labaton to pursue recovery against 23andMe stemming from  
 2 privacy violations suffered in the data breach at issue in this class action. On February 22, 2024, my  
 3 firm sent a second claim notice letter on behalf of 1,984 additional clients. Having received no  
 4 response to either letter, on February 27, 2024, as a courtesy, I forwarded both of these notice letters  
 5 via email to 23andMe's counsel of record in this class action, along with an explanatory email inviting  
 6 discussion of a potential resolution of those claimants' claims. The same day, 23andMe's counsel  
 7 responded, and requested that future correspondence be directed "to Greenberg Traurig and not  
 8 23andMe going forward." A copy of that email chain is attached hereto as **Exhibit A**.

9       4. On March 7, 2024, 23andMe's counsel sent a responsive letter regarding the noticed  
 10 claims, in which it asserted a belief that certain noticed claimants were not affected by the data breach,  
 11 and "invit[ing] further conversations on this matter" as contemplated by the "pre-arbitration filing  
 12 Initial Dispute Resolution process set forth in 23andMe's Terms of Service." On April 25, 2024, I  
 13 responded to address these assertions and to provide notice of 4,055 additional individual claimants  
 14 who had retained Labaton to pursue claims against 23andMe. I also suggested a call between counsel  
 15 to discuss the claims and potential resolution. On May 1, 2024, 23andMe's counsel agreed to a call  
 16 the same day. A copy of that email chain is attached hereto as **Exhibit B**.

17       5. During the May 1, 2024 video conference call, I suggested that the parties execute a  
 18 tolling agreement that contemplated a mediation to resolve the claims of the 23andMe users  
 19 represented by Labaton. This would allow both sides to freely negotiate without the pressure of either  
 20 any applicable statute of limitations or potential arbitral fees. Counsel for 23andMe indicated by  
 21 email on May 3, 2024 that 23andMe was "agreeable to a tolling agreement," and that 23andMe could  
 22 "put together the draft terms on [their] end and circulate for [my] review." A copy of that email is  
 23 attached hereto as **Exhibit C**.

24       6. However, by May 17, 2024, 23andMe had not provided the promised "draft terms."  
 25 As such, I transmitted our own proposed draft to 23andMe's counsel via email, and asked them to  
 26 confirm that they still intended to engage in discussion of a tolling agreement. In response,  
 27 23andMe's counsel confirmed the same day that 23andMe was still "interested in concluding a tolling

1 agreement,” and later stated that they would “send edits hopefully later today” to our proposed draft.  
 2 When Labaton did not receive any proposed edits by May 22, 2024, I followed up with a request for  
 3 an update on May 22, 2024, but did not receive a reply. A copy of that email exchange is attached  
 4 hereto as **Exhibit D**.

5       7. On June 4, 2024, 23andMe finally provided their proposed edits to the tolling  
 6 agreement. Labaton responded nine days later, on June 13, 2024, with additional proposed language,  
 7 but once again we did not receive a response from 23andMe’s counsel. I followed up on June 24,  
 8 2024, but did not receive a response until June 27. Therein, 23andMe’s counsel suggested “set[ting]  
 9 a call for next week to talk through any open items.” Despite repeated requests by my firm, a call  
 10 was not scheduled until July 12, 2024. Counsel for 23andMe did not provide their latest comments  
 11 to the draft tolling agreement until after 11pm on July 11, 2024.

12       8. During the July 12, 2024 conference call, the issue of a provision in the draft tolling  
 13 agreement regarding the rights of Intervenors and Labaton’s other clients in the event of a class  
 14 settlement was discussed at some length. We suggested a provision wherein Intervenors and  
 15 Labaton’s other clients would be allowed to collectively opt-out via a single communication from  
 16 counsel rather than a much more burdensome (and expensive for both claimants and 23andMe)  
 17 individualized opt-out process. 23andMe rejected this possibility. However, because this appeared  
 18 to be the primary sticking point in reaching agreement, we agreed to propose alternative language  
 19 that only temporarily stayed application of any class settlement to the arbitration claimants my firm  
 20 represents, which we transmitted to 23andMe’s counsel on August 4, 2024.

21       9. Separately, in an email on July 16, 2024, counsel for 23andMe stated that they believed  
 22 “it would be helpful for [me] to speak directly with interim co-lead plaintiffs’ counsel regarding the  
 23 putative class action and settlement discussions,” and asked if we would like them to “make that  
 24 introduction.” I responded the same day that we would welcome such an introduction, but 23andMe  
 25 never followed through on its offer.

26       10. On August 20, 2024, having not received any response to our August 4 proposal to  
 27 finalize the tolling agreement, I once again reached out to 23andMe’s counsel requesting an update.  
 28

1 Given the nearly 4 months that had passed during the negotiation process, I informed 23andMe's  
 2 counsel that if agreement could not be reached by August 24, we would have no choice but to move  
 3 our clients' cases forward.

4       11. On August 22, 2024, 23andMe's counsel finally responded, providing a redline of the  
 5 proposed tolling agreement discussed above. Although the cover email did not mention it, a comment  
 6 bubble therein, pointing to an edit that deleted the entire opt-out provision the parties had been  
 7 negotiating, stated that 23andMe had agreed to a term sheet to settle this action, which 23andMe's  
 8 counsel claimed "d[id] not impair or burden arbitration rights." Other than this mischaracterization,  
 9 23andMe provided no information about the content or terms of the proposed settlement. At no point  
 10 prior to the public filing of the motion for preliminary approval of the class settlement were  
 11 Intervenors or their counsel informed that the parties intended to burden class members with an  
 12 onerous opt-out procedure or seek a preliminary injunction of pending or contemplated arbitrations.

13       12. The following day, I requested a conference call to discuss these developments, which  
 14 occurred on August 27, 2024. During that conference call, I inquired as to how the proposed  
 15 settlement would not burden or impair arbitration rights (as conveyed in the comment bubble) and  
 16 was told that, in fact, the proposed settlement would indeed resolve the claims of arbitration claimants.  
 17 I expressed that the claimants we represent intended to opt out of any settlement and immediately  
 18 initiate arbitration claims before JAMS since it was clear 23andMe had no intention to continue good-  
 19 faith negotiations of their claims in light of the proposed class settlement. Later that day, counsel for  
 20 23andMe sent a letter stating their belief that such arbitrations should instead be filed before another  
 21 arbitration administrator, National Arbitration and Mediation ("NAM") because of a dispute between  
 22 the parties as to which version of 23andMe's Terms of Service applied to users' disputes with it  
 23 regarding the data breach.

24       13. On August 29 and 30, several thousand claimants represented by Labaton, including  
 25 Intervenors, filed arbitrations against 23andMe before JAMS. The parties then wrote several letters  
 26 to JAMS administrators regarding the dispute as to whether JAMS or NAM should hear the claims.  
 27 On September 16, 2024, JAMS administrative staff ultimately did not make a determination as to  
 28

1 which version of the agreement (and therefore which arbitral body) controlled, but because the parties  
2 did not all agree to proceed before JAMS, it declined to advance administration of the claims in  
3 question pending agreement or a court order. As such, Intervenors and the other individuals  
4 represented by Labaton intend to promptly re-file their arbitration demands before NAM.

5 I affirm that the foregoing is true under penalty of perjury under the laws of the state of New  
6 York and the laws of the United States.

7

8 Dated: October 2, 2024

Respectfully submitted,

9

10

By: s/ Melissa H. Nafash

11 Melissa H. Nafash (*pro hac vice forthcoming*)  
12 Labaton Keller Sucharow LLP  
13 140 Broadway, 34<sup>th</sup> Fl.  
14 New York, NY 10005  
15 Tel: (212) 907-0700  
16 Fax: (212) 818-0477  
17 mnafash@labaton.com

18

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21

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# **EXHIBIT A**

**Schlow, Alexander F.**

---

**From:** Rebekah.Guyon@gtlaw.com  
**Sent:** Tuesday, February 27, 2024 2:22 PM  
**To:** Nafash, Melissa; Ballon@gtlaw.com; ocarrollK@gtlaw.com  
**Cc:** Gardner, Jonathan; Schlow, Alexander F.; Adam.Korn@gtlaw.com; Chrystal.Pham@gtlaw.com  
**Subject:** [EXTERNAL]RE: 23andMe Notice Letters

Caution! This message was sent from outside your organization.

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Thank you, Melissa. Please send these communications to Greenberg Traurig and not 23andMe going forward so that we can promptly respond. We will be responding to both of these letters shortly.

Regards,

**Rebekah S. Guyon**  
Shareholder

Greenberg Traurig, LLP  
1840 Century Park East | Suite 1900 | Los Angeles, CA 90067-2121  
T +1 310.586.7716 | F +1 310.586.0225  
[Rebekah.Guyon@gtlaw.com](mailto:Rebekah.Guyon@gtlaw.com) | [www.gtlaw.com](http://www.gtlaw.com) | [View GT Biography](#)



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**From:** Nafash, Melissa <MNafash@labaton.com>  
**Sent:** Tuesday, February 27, 2024 10:55 AM  
**To:** Ballon, Ian (Shld-LA-SV-LT-IP-TECH-ENT) <Ballon@gtlaw.com>; Guyon, Rebekah S. (SHLD-LA-LT) <Rebekah.Guyon@gtlaw.com>; O'Carroll, Kristin (Assoc-SFO-LT) <ocarrollK@gtlaw.com>  
**Cc:** Gardner, Jonathan <JGardner@labaton.com>; Schlow, Alexander F. <ASchlow@labaton.com>  
**Subject:** 23andMe Notice Letters

**\*EXTERNAL TO GT\***

Counsel,

We understand that you represent 23andMe, Inc. in connection with putative class action claims against it stemming from a data breach occurring in or around October of last year. As a courtesy, we attach two letters, sent to 23andMe via email and first class mail on February 9 and 22, 2024, providing notice of our clients' claims against 23andMe relating to the same data breach.

We welcome the opportunity to discuss a resolution of our clients' claims with 23andMe, but as of this email, we have received no response from 23andMe to either of our attached letters. In the event no resolution can be reached, our clients reserve all rights, including the right to initiate individual arbitrations against 23andMe pursuant to the terms of the operative Terms of Service.

Should you wish to discuss this matter, please contact me via email or at the phone number below.

Sincerely,  
Melissa



**Melissa H. Nafash | Partner**

140 Broadway, New York, New York 10005  
T: (212) 907-0861 | C: (201) 956-3572  
E: [mnafash@labaton.com](mailto:mnafash@labaton.com) | W: [www.labaton.com](http://www.labaton.com)

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# **EXHIBIT B**

**Schlow, Alexander F.**

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**From:** Cassidy.Kim@gtlaw.com  
**Sent:** Wednesday, May 1, 2024 3:42 PM  
**To:** Nafash, Melissa; Rebekah.Guyon@gtlaw.com; Ballon@gtlaw.com; Adam.Korn@gtlaw.com  
**Cc:** Schlow, Alexander F.  
**Subject:** RE: [EXTERNAL]Response Letter to Labaton Keller

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Great, thank you. Just circulated a Zoom invite—please reach out if you did not receive and/or have any issues.

Best,

**Cassidy Kim**  
Associate

Greenberg Traurig, LLP  
101 2nd Street | Suite 2200 | San Francisco, CA 94105-3668  
T +1 415.590.5133  
[Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com) | [www.gtlaw.com](http://www.gtlaw.com) | [View GT Biography](#)



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**From:** Nafash, Melissa <MNafash@labaton.com>  
**Sent:** Wednesday, May 1, 2024 12:35 PM  
**To:** Kim, Cassidy (Assoc-SFO-GvtCntr) <Cassidy.Kim@gtlaw.com>; Guyon, Rebekah S. (Shld-LA-LT) <Rebekah.Guyon@gtlaw.com>; Ballon, Ian (Shld-LA-SV-LT-IP-TECH-ENT) <Ballon@gtlaw.com>; Korn, Adam (Assoc-LA-LT) <Adam.Korn@gtlaw.com>  
**Cc:** Schlow, Alexander F. <ASchlow@labaton.com>  
**Subject:** RE: [EXTERNAL]Response Letter to Labaton Keller

Hello Cassidy,

Yes, we are available at 3pm PT. Please circulate a calendar invite.

Thanks,  
Melissa

---

**From:** [Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com) <Cassidy.Kim@gtlaw.com>  
**Sent:** Wednesday, May 1, 2024 1:56 PM  
**To:** Nafash, Melissa <MNafash@labaton.com>; Rebekah.Guyon@gtlaw.com; Ballon@gtlaw.com; Adam.Korn@gtlaw.com  
**Cc:** Schlow, Alexander F. <ASchlow@labaton.com>  
**Subject:** RE: [EXTERNAL]Response Letter to Labaton Keller

Dear Melissa:

Thank you for your response. We are reviewing your letter and processing information related to the additional claimants. In the meantime, we are available to speak with you today at 3pm PT—please let us know if this works for you and your team. If so, we can circulate an invite.

Best,

**Cassidy Kim**

Associate

Greenberg Traurig, LLP  
101 2nd Street | Suite 2200 | San Francisco, CA 94105-3668  
T +1 415.590.5133  
[Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com) | [www.gtlaw.com](http://www.gtlaw.com) | [View GT Biography](#)



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**From:** Nafash, Melissa <[MNafash@labaton.com](mailto:MNafash@labaton.com)>

**Sent:** Thursday, April 25, 2024 1:54 PM

**To:** Kim, Cassidy (Assoc-SFO-GvtCntr) <[Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com)>; Guyon, Rebekah S. (Shld-LA-LT) <[Rebekah.Guyon@gtlaw.com](mailto:Rebekah.Guyon@gtlaw.com)>; Ballon, Ian (Shld-LA-SV-LT-IP-TECH-ENT) <[Ballon@gtlaw.com](mailto:Ballon@gtlaw.com)>; Korn, Adam (Assoc-LA-LT) <[Adam.Korn@gtlaw.com](mailto:Adam.Korn@gtlaw.com)>

**Cc:** Schlow, Alexander F. <[ASchlow@labaton.com](mailto:ASchlow@labaton.com)>

**Subject:** RE: [EXTERNAL]Response Letter to Labaton Keller

**\*EXTERNAL TO GT\***

Counsel – sending a revised letter (the last did not include my signature). Thanks.

---

**From:** Nafash, Melissa

**Sent:** Thursday, April 25, 2024 4:49 PM

**To:** [Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com); [Rebekah.Guyon@gtlaw.com](mailto:Rebekah.Guyon@gtlaw.com); [Ballon@gtlaw.com](mailto:Ballon@gtlaw.com); [Adam.Korn@gtlaw.com](mailto:Adam.Korn@gtlaw.com)

**Cc:** Schlow, Alexander F. <[ASchlow@labaton.com](mailto:ASchlow@labaton.com)>

**Subject:** RE: [EXTERNAL]Response Letter to Labaton Keller

Counsel,

Please see the attached correspondence in response to your letter and as notification of additional claimants. Additionally, please let me know if you are available for a call this week.

Sincerely,

Melissa

---

**From:** [Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com) <[Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com)>

**Sent:** Thursday, March 7, 2024 3:41 PM

**To:** Nafash, Melissa <[MNafash@labaton.com](mailto:MNafash@labaton.com)>; Gardner, Jonathan <[JGardner@labaton.com](mailto:JGardner@labaton.com)>; Schlow, Alexander F. <[ASchlow@labaton.com](mailto:ASchlow@labaton.com)>

**Cc:** [Rebekah.Guyon@gtlaw.com](mailto:Rebekah.Guyon@gtlaw.com); [Ballon@gtlaw.com](mailto:Ballon@gtlaw.com); [Adam.Korn@gtlaw.com](mailto:Adam.Korn@gtlaw.com)

**Subject:** [EXTERNAL]Response Letter to Labaton Keller

Counsel,

Please find attached correspondence from Rebekah S. Guyon in response to your notices of claims dated February 9, 2024 and February 22, 2024.

Best,

**Cassidy Kim**

Associate

Greenberg Traurig, LLP  
101 2nd Street | Suite 2200 | San Francisco, CA 94105-3668  
T +1 415.590.5133  
[Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com) | [www.gtlaw.com](http://www.gtlaw.com) | [View GT Biography](#)

**GT** GreenbergTraurig

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# **EXHIBIT C**

**Schlow, Alexander F.**

---

**From:** Cassidy.Kim@gtlaw.com  
**Sent:** Friday, May 3, 2024 10:47 AM  
**To:** Nafash, Melissa; Rebekah.Guyon@gtlaw.com; Ballon@gtlaw.com;  
Adam.Korn@gtlaw.com  
**Cc:** Schlow, Alexander F.  
**Subject:** RE: [EXTERNAL]Response Letter to Labaton Keller

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Melissa and Alexander,

Appreciate the discussion on Wednesday. Further to our call, we conferred with our client and are agreeable to a tolling agreement. We can put together the draft terms on our end and circulate for your review.

Best,

**Cassidy Kim**  
Associate

Greenberg Traurig, LLP  
101 2nd Street | Suite 2200 | San Francisco, CA 94105-3668  
T +1 415.590.5133  
[Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com) | [www.gtlaw.com](http://www.gtlaw.com) | [View GT Biography](#)

**GT** GreenbergTraurig

---

**From:** Kim, Cassidy (Assoc-SFO-GvtCntr)  
**Sent:** Wednesday, May 1, 2024 12:42 PM  
**To:** 'Nafash, Melissa' <MNafash@labaton.com>; Guyon, Rebekah S. (Shld-LA-LT) <Rebekah.Guyon@gtlaw.com>; Ballon, Ian (Shld-LA-SV-LT-IP-TECH-ENT) <Ballon@gtlaw.com>; Korn, Adam (Assoc-LA-LT) <Adam.Korn@gtlaw.com>  
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**GT** GreenbergTraurig

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**Subject:** RE: [EXTERNAL]Response Letter to Labaton Keller

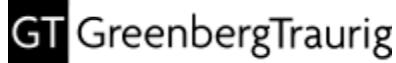
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**Sent:** Thursday, March 7, 2024 3:41 PM

**To:** Nafash, Melissa <[MNafash@labaton.com](mailto:MNafash@labaton.com)>; Gardner, Jonathan <[JGardner@labaton.com](mailto:JGardner@labaton.com)>; Schlow, Alexander F. <[ASchlow@labaton.com](mailto:ASchlow@labaton.com)>

**Cc:** [Rebekah.Guyon@gtlaw.com](mailto:Rebekah.Guyon@gtlaw.com); [Ballon@gtlaw.com](mailto:Ballon@gtlaw.com); [Adam.Korn@gtlaw.com](mailto:Adam.Korn@gtlaw.com)

**Subject:** [EXTERNAL]Response Letter to Labaton Keller

Counsel,

Please find attached correspondence from Rebekah S. Guyon in response to your notices of claims dated February 9, 2024 and February 22, 2024.

Best,

**Cassidy Kim**

Associate

Greenberg Traurig, LLP  
101 2nd Street | Suite 2200 | San Francisco, CA 94105-3668  
T +1 415.590.5133  
[Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com) | [www.gtlaw.com](http://www.gtlaw.com) | [View GT Biography](#)

 **GT Greenberg Traurig**

---

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# **EXHIBIT D**

**Schlow, Alexander F.**

---

**From:** Nafash, Melissa  
**Sent:** Wednesday, May 22, 2024 3:24 PM  
**To:** Ballon@gtlaw.com  
**Cc:** Cassidy.Kim@gtlaw.com; Rebekah.Guyon@gtlaw.com; Adam.Korn@gtlaw.com; Schlow, Alexander F.  
**Subject:** RE: [EXTERNAL]Response Letter to Labaton Keller

Counsel –

Following up. Please send us your edits.

Thanks,  
Melissa

---

**From:** Ballon@gtlaw.com <Ballon@gtlaw.com>  
**Sent:** Friday, May 17, 2024 12:05 PM  
**To:** Nafash, Melissa <MNafash@labaton.com>  
**Cc:** Cassidy.Kim@gtlaw.com; Rebekah.Guyon@gtlaw.com; Adam.Korn@gtlaw.com; Schlow, Alexander F. <ASchlow@labaton.com>  
**Subject:** Re: [EXTERNAL]Response Letter to Labaton Keller

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We will send edits hopefully later today

Ian C. Ballon  
Co-Chair, Global Intellectual Property & Technology Practice Group  
Greenberg Traurig LLP

East Palo Alto Direct Dial: [\(650\) 289-7881](#)

LA Direct Dial: [\(310\) 586-6575](#)

1900 University Avenue  
5th Floor  
East Palo Alto, CA 94303  
Main number: [\(650\) 328-8500](#)  
Direct fax: [\(650\) 462-7881](#)

1840 Century Park East  
19th Floor  
Los Angeles, CA 90067  
Main number: [\(310\) 586-7700](#)  
Direct fax: [\(310\) 586-0575](#)

[Ballon@GTLaw.com](mailto:Ballon@GTLaw.com)  
[www.IanBallon.net](http://www.IanBallon.net)



**LAWYER OF THE YEAR:**



**Information Technology Law**

Los Angeles, 2013, 2016, 2020, 2022, 2023

**Technology Law**

Los Angeles, 2018, 2020

**Information Technology Law**

San Jose, 2019



**Top 100**

Northern California

**LAW360, REGIONAL  
POWERHOUSE  
California, 2022**

On May 17, 2024, at 8:39 AM, Nafash, Melissa <[MNafash@labaton.com](mailto:MNafash@labaton.com)> wrote:

Thanks, Ian. Please let us know if we are in agreement on the terms contained in the agreement I circulated or if you have edits.

---

**From:** [Ballon@gtlaw.com](mailto:Ballon@gtlaw.com) <[Ballon@gtlaw.com](mailto:Ballon@gtlaw.com)>

**Sent:** Friday, May 17, 2024 11:27 AM

**To:** Nafash, Melissa <[MNafash@labaton.com](mailto:MNafash@labaton.com)>

**Cc:** [Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com); [Rebekah.Guyon@gtlaw.com](mailto:Rebekah.Guyon@gtlaw.com); [Adam.Korn@gtlaw.com](mailto:Adam.Korn@gtlaw.com); Schlow, Alexander F. <[ASchlow@labaton.com](mailto:ASchlow@labaton.com)>

**Subject:** Re: [EXTERNAL]Response Letter to Labaton Keller

We are interested in concluding a tolling agreement

Ian C. Ballon  
Co-Chair, Global Intellectual Property & Technology Practice Group  
Greenberg Traurig LLP

East Palo Alto Direct Dial: [\(650\) 289-7881](tel:(650)289-7881)

LA Direct Dial: [\(310\) 586-6575](tel:(310)586-6575)

[1900 University Avenue](http://www.gtlaw.com)  
[5th Floor](http://www.gtlaw.com)  
[East Palo Alto, CA 94303](http://www.gtlaw.com)

Main number: (650) 328-8500

Direct fax: (650) 462-7881

1840 Century Park East

19th Floor

Los Angeles, CA 90067

Main number: (310) 586-7700

Direct fax: (310) 586-0575

Ballon@GTLaw.com

www.IanBallon.net

<image001.png>

<image002.png>

**LAWYER OF THE YEAR:**

**Information Technology Law**

Los Angeles, 2013, 2016, 2020, 2022, 2023

<image003.png>

**Technology Law**

Los Angeles, 2018, 2020

**Information Technology Law**

San Jose, 2019

<image004.png>

**Top 100**

Northern California

<image005.png>

**LAW360, REGIONAL  
POWERHOUSE  
California, 2022**

On May 17, 2024, at 8:09 AM, Nafash, Melissa <[MNafash@labaton.com](mailto:MNafash@labaton.com)> wrote:

Counsel,

Following up on our call and attaching a proposed tolling agreement. Please let us know if 23andMe intends to engage in this agreement.

Thanks,  
Melissa

---

**From:** [Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com) <[Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com)>

**Sent:** Wednesday, May 1, 2024 3:42 PM

**To:** Nafash, Melissa <[MNafash@labaton.com](mailto:MNafash@labaton.com)>; [Rebekah.Guyon@gtlaw.com](mailto:Rebekah.Guyon@gtlaw.com); [Ballon@gtlaw.com](mailto:Ballon@gtlaw.com); [Adam.Korn@gtlaw.com](mailto:Adam.Korn@gtlaw.com)

**Cc:** Schlow, Alexander F. <[ASchlow@labaton.com](mailto:ASchlow@labaton.com)>  
**Subject:** RE: [EXTERNAL]Response Letter to Labaton Keller

Great, thank you. Just circulated a Zoom invite—please reach out if you did not receive and/or have any issues.

Best,

**Cassidy Kim**  
Associate

Greenberg Traurig, LLP  
101 2nd Street | Suite 2200 | San Francisco, CA 94105-3668  
T +1 415.590.5133  
[Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com) | [www.gtlaw.com](http://www.gtlaw.com) | [View GT Biography](#)

<image001.png>

---

**From:** Nafash, Melissa <[MNafash@labaton.com](mailto:MNafash@labaton.com)>  
**Sent:** Wednesday, May 1, 2024 12:35 PM  
**To:** Kim, Cassidy (Assoc-SFO-GvtCntr) <[Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com)>; Guyon, Rebekah S. (Shld-LA-LT) <[Rebekah.Guyon@gtlaw.com](mailto:Rebekah.Guyon@gtlaw.com)>; Ballon, Ian (Shld-LA-SV-LT-IP-TECH-ENT) <[Ballon@gtlaw.com](mailto:Ballon@gtlaw.com)>; Korn, Adam (Assoc-LA-LT) <[Adam.Korn@gtlaw.com](mailto:Adam.Korn@gtlaw.com)>  
**Cc:** Schlow, Alexander F. <[ASchlow@labaton.com](mailto:ASchlow@labaton.com)>  
**Subject:** RE: [EXTERNAL]Response Letter to Labaton Keller

Hello Cassidy,

Yes, we are available at 3pm PT. Please circulate a calendar invite.

Thanks,  
Melissa

---

**From:** [Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com) <[Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com)>  
**Sent:** Wednesday, May 1, 2024 1:56 PM  
**To:** Nafash, Melissa <[MNafash@labaton.com](mailto:MNafash@labaton.com)>; [Rebekah.Guyon@gtlaw.com](mailto:Rebekah.Guyon@gtlaw.com); [Ballon@gtlaw.com](mailto:Ballon@gtlaw.com); [Adam.Korn@gtlaw.com](mailto:Adam.Korn@gtlaw.com)  
**Cc:** Schlow, Alexander F. <[ASchlow@labaton.com](mailto:ASchlow@labaton.com)>  
**Subject:** RE: [EXTERNAL]Response Letter to Labaton Keller

Dear Melissa:

Thank you for your response. We are reviewing your letter and processing information related to the additional claimants. In the meantime, we are available to speak with you today at 3pm PT—please let us know if this works for you and your team. If so, we can circulate an invite.

Best,

**Cassidy Kim**  
Associate

Greenberg Traurig, LLP  
101 2nd Street | Suite 2200 | San Francisco, CA 94105-3668  
T +1 415.590.5133  
[Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com) | [www.gtlaw.com](http://www.gtlaw.com) | [View GT Biography](#)

<image001.png>

---

**From:** Nafash, Melissa <[MNafash@labaton.com](mailto:MNafash@labaton.com)>  
**Sent:** Thursday, April 25, 2024 1:54 PM  
**To:** Kim, Cassidy (Assoc-SFO-GvtCntr) <[Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com)>; Guyon, Rebekah S. (Shld-LA-LT) <[Rebekah.Guyon@gtlaw.com](mailto:Rebekah.Guyon@gtlaw.com)>; Ballon, Ian (Shld-LA-SV-LT-IP-TECH-ENT) <[Ballon@gtlaw.com](mailto:Ballon@gtlaw.com)>; Korn, Adam (Assoc-LA-LT) <[Adam.Korn@gtlaw.com](mailto:Adam.Korn@gtlaw.com)>  
**Cc:** Schlow, Alexander F. <[ASchlow@labaton.com](mailto:ASchlow@labaton.com)>  
**Subject:** RE: [EXTERNAL]Response Letter to Labaton Keller

**\*EXTERNAL TO GT\***

Counsel – sending a revised letter (the last did not include my signature). Thanks.

---

**From:** Nafash, Melissa  
**Sent:** Thursday, April 25, 2024 4:49 PM  
**To:** [Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com); [Rebekah.Guyon@gtlaw.com](mailto:Rebekah.Guyon@gtlaw.com); [Ballon@gtlaw.com](mailto:Ballon@gtlaw.com); [Adam.Korn@gtlaw.com](mailto:Adam.Korn@gtlaw.com)  
**Cc:** Schlow, Alexander F. <[ASchlow@labaton.com](mailto:ASchlow@labaton.com)>  
**Subject:** RE: [EXTERNAL]Response Letter to Labaton Keller

Counsel,

Please see the attached correspondence in response to your letter and as notification of additional claimants. Additionally, please let me know if you are available for a call this week.

Sincerely,

Melissa

---

**From:** [Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com) <[Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com)>  
**Sent:** Thursday, March 7, 2024 3:41 PM  
**To:** Nafash, Melissa <[MNafash@labaton.com](mailto:MNafash@labaton.com)>; Gardner, Jonathan <[JGardner@labaton.com](mailto:JGardner@labaton.com)>; Schlow, Alexander F. <[ASchlow@labaton.com](mailto:ASchlow@labaton.com)>  
**Cc:** [Rebekah.Guyon@gtlaw.com](mailto:Rebekah.Guyon@gtlaw.com); [Ballon@gtlaw.com](mailto:Ballon@gtlaw.com); [Adam.Korn@gtlaw.com](mailto:Adam.Korn@gtlaw.com)  
**Subject:** [EXTERNAL]Response Letter to Labaton Keller

Counsel,

Please find attached correspondence from Rebekah S. Guyon in response to your notices of claims dated February 9, 2024 and February 22, 2024.

Best,

**Cassidy Kim**  
Associate

Greenberg Traurig, LLP  
101 2nd Street | Suite 2200 | San Francisco, CA 94105-3668  
T +1 415.590.5133  
[Cassidy.Kim@gtlaw.com](mailto:Cassidy.Kim@gtlaw.com) | [www.gtlaw.com](http://www.gtlaw.com) | [View GT Biography](#)

<image002.png>

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<23andMe - draft tolling agreement.docx>

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